

MT LEGISLATIVE HISTORY

Chapter 584 1989

Bill H _____ S 432

Original bill & hist. ☒ C

H. Committee on Ag. & Livestock, Int.

S. Committee on Ag. & Livestock, Int.

Hearing Date(s) _____ C

Hearing Date(s) _____ C

3/10 ☒ C

_____ C

_____ C

2/15 ☒ C

_____ C

_____ C

Date Out

3/17 ☒ C

2/15 ☒ C

Did this bill originate in an interim committee? ___ Yes ☒ No

Committee _____

Report _____

SENATE BILL NO. 432
INTRODUCED BY BENGTON

IN THE SENATE

FEBRUARY 15, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

FIRST READING.

FEBRUARY 16, 1989 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 17, 1989 PRINTING REPORT.

FEBRUARY 18, 1989 SECOND READING, DO PASS.

FEBRUARY 20, 1989 ENGROSSING REPORT.

FEBRUARY 21, 1989 THIRD READING, PASSED.
AYES, 50; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK & IRRIGATION.

FEBRUARY 28, 1989 FIRST READING.

MARCH 22, 1989 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 28, 1989 SECOND READING, CONCURRED IN.

MARCH 29, 1989 THIRD READING, CONCURRED IN.
AYES, 87; NOES, 10.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 4, 1989 RECEIVED FROM HOUSE.

APRIL 6, 1989

SECOND READING, AMENDMENTS
CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Spack BILL NO. 432
 2 INTRODUCED BY Bengton
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING TECHNICAL
 5 CHANGES TO THE IRRIGATION DISTRICT LAWS; MODIFYING THE
 6 REQUIREMENTS FOR COMMISSIONERS OF IRRIGATION DISTRICTS AND
 7 THE PROCESS FOR APPOINTING A COMMISSIONER TO FILL A VACANCY
 8 ON THE BOARD OF COMMISSIONERS; CLARIFYING THE QUALIFICATIONS
 9 OF ELECTORS; ALLOWING A COUNTY TREASURER TO RECEIVE
 10 ASSISTANCE FROM AN IRRIGATION DISTRICT EMPLOYEE OR
 11 COMMISSIONER FOR CERTAIN DISTRICT-RELATED TAX FUNCTIONS; AND
 12 AMENDING SECTIONS 85-7-1501, 85-7-1703, 85-7-1710, AND
 13 85-7-2136, MCA. "

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 **Section 1.** Section 85-7-1501, MCA, is amended to read:

17 "85-7-1501. Qualifications of commissioners and term
 18 of office. (1) No A person may not be a commissioner unless
 19 he is an owner of irrigated land within ~~the district~~ and is
 20 a resident of the ~~county--in--which--the~~ division of the
 21 district ~~or--some--portion--thereof,~~ for which the commissioner
 22 is to be elected~~7--is--situated.~~

23 (2) The commissioners appointed shall hold their
 24 respective offices until the second Saturday in December
 25 following their appointment and until their respective

1 successors are elected and qualified. Each of the
 2 commissioners shall qualify in the same manner as justices
 3 of the peace. The bond for a commissioner ~~shall~~ must be
 4 approved by the district court or judge ~~thereof of the~~
 5 district court and filed in the office of the clerk of the
 6 court."

7 **Section 2.** Section 85-7-1703, MCA, is amended to read:

8 "85-7-1703. Vacancies among commissioners. In case of
 9 a vacancy in the board of commissioners, from any cause,
 10 such the vacancy shall must be filled until the next regular
 11 or special election by appointment by the board. The
 12 remaining commissioners shall constitute a quorum for the
 13 purpose of filling any vacancy. If a vacancy exists for
 14 every position on the board, the judge of the district court
 15 of the county in which the division or major portion ~~thereof~~
 16 of the division is situated shall make the appointments. The
 17 appointee ~~shall must~~ be an owner of irrigated land within
 18 the division of the district7--shall and must be a resident
 19 of the ~~county-in-which-the~~ division of the district ~~for--some~~
 20 ~~portion--of--the--division~~ for which such the commissioner is
 21 ~~so elected7--is--situated7~~ and shall hold office until his
 22 successor is elected and qualified."

23 **Section 3.** Section 85-7-1710, MCA, is amended to read:

24 "85-7-1710. Qualification of electors and nature of
 25 voting rights. (1) At all elections held under the

1 provisions of this part, except as otherwise expressly
2 provided, the following holders of title or evidence of
3 title to irrigated lands within the district, herein
4 designated "electors", are entitled to vote:

5 (a) all individuals having the qualifications of
6 electors under the constitution and general election laws of
7 the state, except that no registration of electors may be
8 required;

9 (b) guardians, executors, administrators, and
10 trustees;

11 (c) domestic corporations, by their duly authorized
12 agents.

13 (2) In all elections held under this part, each
14 elector is permitted to cast one vote for each 40 acres of
15 irrigable land or major fraction thereof owned by the
16 elector within the district, irrespective of the location of
17 the irrigable lands within the tracts designated by the
18 commissioners for assessment and taxation purposes or within
19 congressional subdivisions, platted lots or blocks (except
20 as hereinafter provided for), election precincts, or
21 district divisions, but any elector owning any less than 40
22 acres of irrigable land is entitled to one vote. Until the
23 irrigable area under the proposed plan of reclamation is
24 determined, all land included within the boundaries of the
25 district shall must be considered irrigable land for

1 election purposes.

2 (3) Whenever land is owned by co-owners, the owners
3 may designate one of their number or an agent to cast the
4 vote for the owners, and one vote only for each 40 acres of
5 irrigable land or major fraction thereof may be cast by the
6 voting co-owner or agent. Whenever land is under contract of
7 sale to a purchaser residing within the state, the purchaser
8 may vote on behalf of the owner of the land. When voting,
9 the agent of a corporation or co-owners, the co-owner
10 designated for purpose of voting, or the purchaser of land
11 under contract of sale, as the case may be, shall file with
12 the secretary of the district or with the election officials
13 a written instrument of his authority, executed and
14 acknowledged by the proper officers of the corporation, by
15 the co-owners, or by the owner of land under contract of
16 sale, as the case may be, and thereupon the agent or
17 co-owner or purchaser, as the case may be, is an elector
18 within the meaning of this part. Whenever the total
19 irrigable acreage within any one district has been platted
20 or subdivided into lots or blocks to the extent of 5% or
21 more of the total acreage of the district or whenever the
22 majority of the district board adopts a resolution allowing
23 it, each elector is permitted to cast one vote for each acre
24 of irrigable land or major fraction thereof of an acre of
25 irrigable land owned by the elector within the district,

irrespective of the location of such irrigable lands within the tracts designated by the commissioners for assessment and taxation purposes or within the congressional subdivisions, but any elector owning any less than 1 acre of irrigable land within the district is entitled to one vote. The balloting ~~shall~~ must take place in the following manner: 10 votes or less, separate ballots will be used; more than 10 votes, the elector shall vote in blocks of 10 using one ballot for each 10 votes and separate ballots for odd votes over multiples of 10."

Section 4. Section 85-7-2136, MCA, is amended to read:

"85-7-2136. Collection of taxes or assessment. (1) On or before the third Monday in August of each year the board of commissioners shall furnish the agent of the department of revenue in each county in which any of the lands of the district are situate a correct list of all the district lands in ~~such the~~ county, together with the amount of the total taxes or assessments against ~~said the~~ lands for district purposes. The agent of the department of revenue in each county shall immediately thereafter, and prior to the delivery of the assessment book to the county treasurer, cause ~~said the~~ assessment roll to be entered in the assessment book of ~~said the~~ county for each year.

(2) It ~~shall-be~~ is the duty of the county treasurer of each county in which any irrigation district is located, in

whole or in part, to collect and receipt for all taxes and assessments levied by ~~any--such the~~ district, in the same manner and at the same time as is required in the collection of taxes upon real estate for county purposes as provided in 15-16-102; ~~provided-the.~~ The treasurer shall receive from any taxpayer, at any time, the amount due on account of any district assessments of any kind, whether other taxes on the same real estate are paid or not.

(3) If requested in writing by a board of commissioners of an irrigation district, the county treasurer may receive assistance from an employee of the irrigation district or a commissioner of the district for the purpose of collecting district assessments as provided in 15-16-102, investing district funds as directed by the board of commissioners of the district, and preparing district assessment notices.

(4) When any real estate on account of which ~~such the~~ district taxes and assessments have been levied has been sold to the county and tax certificate of sale is held by the county, the taxpayer may pay to the treasurer at any time any semiannual installment of ~~such the~~ district tax or assessment, together with the penalty and interest to date of payment on such installment; ~~provided-that such.~~ However, the payment shall may not be deemed considered a redemption of ~~said the~~ property from ~~such the~~ tax sale but shall must

1 be credited on account of any redemption that may thereafter
2 be made. In case of any payment pursuant to this subsection,
3 a separate tax receipt ~~shall~~ must issue showing exactly what
4 assessments have been paid and ~~shall~~ must show that no other
5 tax on ~~said~~ the real estate has been received by ~~said~~ the
6 treasurer; ~~provided-such.~~ The county treasurer ~~shall~~ may not
7 collect or receive or receipt for any taxes levied for
8 county purposes upon real estate situated wholly or in part
9 within any irrigation district upon which an assessment for
10 the purposes of ~~such~~ the irrigation district has been levied
11 unless the assessment levied for ~~such~~ irrigation district
12 purposes ~~be~~ is paid as herein permitted and the receipt
13 therefor ~~for~~ the payment presented to the county treasurer
14 at the time ~~such~~ the taxes are paid, or paid at the same
15 time."

-End-

BILL STATUS SYSTEM
RPT S2

STATE OF MONTANA
MONTANA LEGISLATIVE COUNCIL BILL STATUS SYSTEM
CURRENT STATUS OF ALL BILLS EVER REFERRED TO (S) AGRICULTURE

PAGE NBR..... 2
TIME: 12:33
DATE: 05/02/89

CHAIRMAN--TOM BECK
SECRETARY-JAELENE JOHNSON
NORMAL SCHEDULE==> SITE: ROOM 413/415

COMMITTEE--(S) AGRICULTURE
DAYS: M,W,F TIME: 1:00 P.M.

OFFICE--ROOM 439

BILL	REFER	DATE	LATEST DATE/ACTION ON BILL	SPONSOR	TITLE
NOTE: BILL WILL BE LISTED TWICE IF REREFERRED BACK TO THE SAME COMMITTEE					
=====					
				SPONSOR: HOFMAN, SAM	TITLE-LIABILITY FOR TRANSFER OF LAND CONTAINING NOXIOUS WEEDS
SB 264		01/27	04/24--TABLED IN COMMITTEE	SPONSOR: BENGTSON, ESTHER	TITLE-REQUIRES LANDOWNER CONSENT OR COURT ORDER FOR WATER PERMIT/CHANGE APPROVAL
SB 265		01/27	02/21--(S) 3RD READING FAILED	SPONSOR: BENGTSON, ESTHER	TITLE-ALLOWS THE BOARD OF NATURAL RESOURCES TO REALLOCATE ANY WATER RESERVATION
SB 300		01/31	03/22--(S) CHAPTER NUMBER	SPONSOR: AKLESTAD, GARY	EFFECTIVE DATE: 03/21/89 TITLE-REVISE TERMS OF OFFICE OF MEMBERS OF MONTANA WHEAT AND BARLEY COMMITTEE
SB 305		02/01	04/15--(S) CHAPTER NUMBER	SPONSOR: JERGSON, GREG	EFFECTIVE DATE: 04/15/89 TITLE-VOLUNTARY TERMINATION OF STATE LAND LEASE UPON ENROLLMENT IN CRP
SB 320		02/02	03/21--(S) CHAPTER NUMBER	SPONSOR: MANNING, DICK	EFFECTIVE DATE: 03/21/89 TITLE-REVISE LAWS RELATING TO SLAUGHTER AND INSPECTION OF LIVESTOCK AND POULTRY
SB 337	R	02/03	04/24--TABLED IN COMMITTEE	SPONSOR: JACOBSON, JUDY	TITLE-REALTY TRANSFER TAX FOR WEED CONTROL AND ECONOMIC DEVELOPMENT
SB 357		02/06	04/21--(S) CHAPTER NUMBER	SPONSOR: HARDING, ETHEL	EFFECTIVE DATE: 10/01/89 TITLE-PROHIBITION ON NONCERTIFIED SEED POTATOES
SB 386		02/10	03/29--(S) CHAPTER NUMBER	SPONSOR: GALT, JACK	EFFECTIVE DATE: 10/01/89 TITLE-ALLOWS LEGISLATURE OR GOVERNOR TO REVISE THE STATE WATER PLAN
SB 387		02/10	03/24--(S) CHAPTER NUMBER	SPONSOR: THAYER, GENE	EFFECTIVE DATE: 10/01/89 TITLE-MODIFIED GRAIN WAREHOUSE RECEIPTS OFFERED IN WRITING
SB 390		02/11	04/13--(S) CHAPTER NUMBER	SPONSOR: GALT, JACK	EFFECTIVE DATE: 10/01/89 TITLE-ALLOWS INTERIM PERMIT TO APPROPRIATE WATER FROM COAL MINES NEAR ROUNDUP
SB 416		02/13	04/24--TABLED IN COMMITTEE	SPONSOR: ANDERSON, JR., JOHN	TITLE-CHANGES CONCLUSIVE PRESUMPTION TO REBUTTABLE FOR WATER RIGHTS ADJUDICATION
SB 432		02/15	04/20--(S) CHAPTER NUMBER	SPONSOR: BENGTSON, ESTHER	EFFECTIVE DATE: 10/01/89 TITLE-MAKES TECHNICAL CHANGES TO IRRIGATION DISTRICT LAWS
SB 447		02/15	03/30--(S) CHAPTER NUMBER	SPONSOR: YELLOWTAIL JR., WILLIAM	EFFECTIVE DATE: 10/01/89 TITLE-ESTABLISHES PROCESS AND PRIORITY DATES FOR FUTURE WATER RESERVATIONS
SB 450		02/15	04/24--(S) DIED IN PROCESS	SPONSOR: YELLOWTAIL JR., WILLIAM	TITLE-CLARIFIES STATUS AND USE OF SALVAGED WATER UNDER MONTANA WATER LAW
SJ 4		01/20	04/24--TABLED IN COMMITTEE	SPONSOR: RAPP-SVRCEK, PAUL	TITLE-URGING PARITY LEVELS IN THE PRICE OF RAW MATERIALS
SJ 11		02/08	03/13--(S) FILED WITH SECRETARY OF STATE	SPONSOR: BECK, TOM	TITLE-URGE CONGRESS AND USDA TO SUPPORT RESEARCH TO MAINTAIN RODENTICIDE REGISTERS
SJ 18		03/22	04/18--(S) FILED WITH SECRETARY OF STATE	SPONSOR: DEVLIN, GERRY	TITLE-URGE CONGRESS TO CONTINUE FUNDING AGRICULTURAL AND RANGE EXPERIMENT STATIONS
SJ 22		04/13	04/28--(H) SIGNED BY SPEAKER	SPONSOR: HARP, JOHN	TITLE-STUDY GROUNDWATER QUALITY MANAGEMENT

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON AGRICULTURE

Call to Order: By Chairman Tom Beck, on February 15, 1989,
at 12:30 p.m.

ROLL CALL

Members Present: Senators: Gary Aklestad, Esther Bengtson,
Gerry Devlin, Jack Galt, Greg Jergeson, Gene Thayer,
Bob Williams, Chairman Tom Beck

Members Excused: Senator Hubert Abrams

Members Absent: None

Staff Present: Doug Sternberg, Legislative Council

Announcements/Discussion: A tour of MSU's agriculture
program. See exhibit 1.

DISPOSITION OF SENATE BILL 357

Discussion: Senator Beck-"There was a concern about the 3
acres being too much land in there."

Senator Beck-"Is there a definition for garden size? Can a
garden be 40 acres?" Senator Thayer-"Not unless you're
crazy."

Senator Aklestad-"The Hutterites might call theirs a
garden."

Amendments and Votes: Senator Thayer moved that subsection
"3" be deleted; the motion was seconded by Senator
Aklestad. The motion carried.

Recommendation and Vote: Senator Aklestad moved that SB 357
DO PASS AS AMENDED; the motion was seconded by Senator
Galt. The motion carried unanimously.

DISPOSITION OF SENATE BILL 387

Discussion: Doug Sternberg explained the amendments to SB
387.

daughters will have to pay for it the rest of their lives and their sons and daughters--for a simple mistake in paperwork! It's not acceptable to treat people like this in our society. We even treat criminals better than that. I urge this committee to pass this bill."

Testimony:

Opponents:

None

Questions From Committee Members: Senator Aklestad-"There isn't a new deadline established in this bill, it's open-ended? Is that correct?" Senator Anderson-"I think that's correct."

Senator Aklestad-"Are we going to have a conflict between those two documents--this and the final decree? We have two conflicting documents." Mark Josephson-"The deadline would be the preliminary decree state of whatever particular basin, if you decide on basin by basin. The point is, up until the time the court is ready to issue the final decree. One of the reasons it seems fair to give that kind of a deadline; it would change basin to basin depending on the status. I don't know what the effect of opening up the basins is going to have."

Closing by Sponsor: Senator Anderson-See exhibit 14.

HEARING ON SENATE BILL 432

Presentation and Opening Statement by Sponsor: Senator Bengtson, District 49, stated "This was requested to me by a local irrigation district. I'm going to let my Huntley Project irrigation manager explain what it is."

List of Testifying Proponents and What Group They Represent:

Dueane Calvin representing the Huntley Project Irrigation District
R.A. Ellis representing the Montana Resource Association;
also the Commissioner for the Helena Valley Irrigation District

List of Testifying Opponents and What Group They Represent:

None

Testimony:
Proponents:

Dueane Calvin-See exhibit 16.

R.A. Ellis-"I support this bill fully. It is hard to collect the taxes for the irrigation district. Our county treasurer does allow this. We have other counties that do not allow this. I can see that this (SB 432) will clarify this so everybody will be on an equal status. Please pass the bill."

Testimony:
Opponents:

None

Questions From Committee Members: Senator Bengtson: "All those amendments do is reinstate the language that was deleted, because our attorney misunderstood. Those amendments were given just to reinsert the language." See exhibit 17.

Closing by Sponsor: Senator Bengtson closes.

DISPOSITION OF SENATE BILL 432

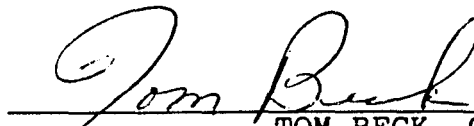
Discussion: None

Amendments and Votes: Senator Bengtson moved the amendments on SB 432. The motion carried.

Recommendation and Vote: Senator Bengtson moved SB 432 DO PASS AS AMENDED; the motion was seconded by Senator Devlin. The motion carried unanimously.

ADJOURNMENT

Adjournment At: 3:06 p.m.


TOM BECK, Chairman

ROLL CALL

AGRICULTURE

COMMITTEE

DATE 2/15/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS			✓
SENATOR GARY AKLESTAD	✓		
SENATOR ESTHER BENGTON	✓		
SENATOR GERRY DEVLIN	✓		
SENATOR JACK GALT	✓		
SENATOR GREG JERGSON	✓		
SENATOR GENE THAYER	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM BECK	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 16, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration SB 432 (first reading copy -- white), respectfully report that SB 432 be amended and as so amended do pass:

1. Page 1, line 19.

Following: "~~district~~"

Insert: "the district"

2. Page 1, line 20.

Following: "~~the~~"

Insert: "county in which the"

3. Page 1, line 21.

Following: "~~thereof,~~"

Insert: "or some portion of the division"

AND AS AMENDED DO PASS

Signed: _____

Thomas A. Beck
Thomas A. Beck, Chairman

M.C. 8'
2/16/89
2:10 P.M.

Ducane Calvin for
Huntley Project Irrigation District;
Before the Senate Committee on Ag., 2-15-89

DATE 2/15/89
BILL NO. SB 432

SB432 and amendments.

We support this bill on the basis of the following three items;

1. Three clarifications with regard to ownership of "irrigated" lands as a part of the qualifications for a Commissioner. This will make the qualifications consistent with other areas of the law.

2. The appointment of commissioners to fill vacancies in an irrigation district board is currently done by the district courts. We feel that this is costly, inefficient and time consuming. It also places an undue burden on the court system.

3. District involvement in printing and collecting assessments. It is my understanding that this may be permitted under other Titles of the law. We support clarifying this opportunity this action within Title 85. This could effectively reduce the immediate workload for the Counties and substantially reduce conflicts within the districts.

EXHIBIT NO. 11
DATE 2/15/89
BILL NO. SB432

Amendments to Senate Bill No. 432
First Reading Copy

Requested by Senator Bengtson
For the Senate Committee on Agriculture

February 15, 1989

1. Page 1, line 19.
Following: "~~district~~"
Insert: "the district"
2. Page 1, line 20.
Following: "~~which-the~~"
Insert: "county in which the"
3. Page 1, line 21.
Following: "~~thereof,~~"
Insert: "or some portion of the division"

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By Chairman Bob Bachini, on March 10th 1989, at
4:00 p.m.

ROLL CALL

Members Present: All with exception of:

Members Excused: Rep. Francis Koehnke, Rep. Bob Ream

Members Absent: none

Staff Present: Connie Erickson, Legislative Council and Maureen
Cleary, Committee Secretary

Announcements/Discussion: none

HEARING ON SENATE BILL 387

Presentation and Opening Statement by Sponsor:

Sen. Thayer: Senate District #19. This bill would give the Department of Agriculture tools to deal with problems arising from one party buying receipts in another party's grain elevator. Currently, the Dept. does not have authority to assist these persons that have conflict. As a practical matter this rarely happens, but does occasionally. This would allow the Dept. to require some specifications in working with these types of problems.

Testifying Proponents and Who They Represent:

none

Proponent Testimony:

none

Testifying Opponents and Who They Represent:

none

Opponent Testimony:

none

Questions From Committee Members: none

Closing by Sponsor: waived

DISPOSITION OF SENATE BILL 387

Motion: Rep. Kasten: made the motion to "do pass"

Discussion: none

Amendments, Discussion, and Votes: none

Recommendation and Vote: THEREFORE, THE COMMITTEE RECOMMENDS
THIS BILL "BE CONCURRED IN".

HEARING ON SENATE BILL 432

Presentation and Opening Statement by Sponsor:

Sen. Bengtson: Senate District #49. This bill revises the current irrigation laws. There are some suggested amendments for this bill. (See Exhibit #1) This act makes technical changes to the irrigation district laws.

Testifying Proponents and Who They Represent:

Ms. Jo Brunner/ Executive Secretary, Montana Water Resources Association, Helena

Proponent Testimony:

Ms. Brunner: Reviewed the proposed amendments.

Testifying Opponents and Who They Represent:

none

Opponent Testimony:

none

Questions From Committee Members:

REP. PATTERSON: Wouldn't requiring the voter to list the number of acres they own violate their right to privacy? MS. BRUNNER: I am not certain that this is a secret ballot. Presently, some of the districts voters list the number of acres on the ballot.

REP. GUTHRIE: Is there any particular date when the water assessment is due? MS. BRUNNER: Not that I know of. I know of no penalty to the water assessment if they do not pay in November. REP. GUTHRIE: If a water user did not want to pay his water assessment in one particular year and did not want to use his water, he would not be forced to pay the assessment? MS. BRUNNER: If he did not pay his assessment,

he would not be able to receive water until that assessment was paid.

REP. KASTEN: Would you be amenable to an amendment that would correct some language in the bill that would update this to current voting law? SEN. BENGTSON: There is alot about the irrigation laws that lend themselves to confusion. I certainly would not object to clarification.

REP. WESTLAKE: How is the county reimbursed? Is there a fee to help set up the assessments and collect taxes? MS. BRUNNER: After the assessments are prepared, they are transferred onto the county tax roll. I am not aware that the county treasurer is given any money for this service. The only financial aid is when the county invests the districts money and then they charge one and one-half percent for that investment.

REP. STEPPLER: Are there any other statutes that allows these districts to work under other laws? MS. ERICKSON: Read text of 85-7-17-02, 13-1-1-04 and 12-1-1-401. Clarified the laws to the Committee.

REP. PATTERSON: Has your associations had a chance to look over these amendments and come to agreement? MS. BRUNNER: Yes, I have called all of the people concerned and they were in agreement. REP. PATTERSON: If we should pass this bill, we won't get alot of calls in opposition? MS. BRUNNER: No, but I would ask that you do not make an effort to amend this until we can check with our people.

Closing by Sponsor: Closed briefly to the Committee.

HEARING ON SENATE BILL 386

Presentation and Opening Statement by Sponsor:

Sen. Gault: Senate District #13. This bill will revise the state water plan.

Testifying Proponents and Who They Represent:

Ms. Jo Brunner/ Executive Secretary, Mont. Water Resources Association, Helena

Mr. Andy Neal/ Executive Vice-President, Montana Farm Bureau Federation, Helena

Proponent Testimony:

Ms. Brunner: (See Exhibit #2)

Mr. Neal: (See Exhibit #3)

Testifying Opponents and Who They Represent:

COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 2/10/89

[illegible]

EXHIBIT #1
DATE 3/10/89
HB SB 432.

Senate Bill no. 432--An act making technical changes in Irrigation District laws

Bill originally came about because some of the irrigation districts were having trouble with the problems addressed within the bill:

No. 1: Commissioners are not now required to own irrigable land within the division of the district they are elected to represent.

Amendment in Section 1, line 15-18 will require the commissioner to own land within the division of the district he will represent.

No.2: The existing law requires only residence in the county where the districts are situated.

Amendment in Section 1, lines 18-21 [gray bill] requires that a least a portion of the division of the district the commissioner represents must lie within the county of his residence.

No.2: Amendment in Section 2, [gray bill], page 1 lines 29, through lines 7 on page 2, [gray bill] allows for the appointment of a commissioner in case of a vacancy, or if all seats vacated, allowing the same provisions as No. 1--that the commissioner/s must own irrigable land within the division of the district he will represent and must live within a county that contains a portion of the division of the district.

No.3: As explained to the committee by Mr. Nypen, the law now requires unnecessary and extensive preparation and voting procedure for the elections.

The amendment in Section 3, page 3 [gray bill] lines 18-20, allows the ballot to be printed in a form which would require the voter to enter the acres he is eligible to vote on, and the number of votes he will then cast.

NO. 4: The existing law mandates that irrigation districts prepare all assessment materials, which includes the acres owned, the acres irrigable, the assessment for the acres, etcetera and submit that information to the County Treasurers. The treasurer then mails out the assessments to the water users. When irrigation season begins, the district must contact the treasurer and request information whether or not the water user who has requested water delivery has paid

The amendment in Section 4, page 4 [gray bill] lines 5-12 allows the districts, in a voluntary procedure, to have appointed within its office, by the County Treasurer a person who will then, after the district has prepared the assessments, be responsible for the mailing of the assessments to the water users. The districts would stand the expense of the mailings. The water users will mail the monies owed to the district office, the district would record the payments, and then forward the monies on to the Courthouse.

All would be done under the auspices of the Treasure, under practices and procedures established by the Treasurer and is up to the separate districts to decide if they wish to participate or not.

No.5: Up until now, there has been no definition of 'irrigable land' to base decisions on.

New section 5, page 4 and 5, lines 33 through 1 of the gray bill, gives that definition.

The word 'irrigable' is a consistency with the language used in the Federal Reclamation Act.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By Chairman Bob Bachini, on March 17th 1989, at
4:10 p.m.

ROLL CALL

Members Present: All were present except:

Members Excused: Rep. Jerry Driscoll, Rep. Jim Elliott, Rep. Bob
Ream and Rep. Orval Ellison

Members Absent: none

Staff Present: Connie Erickson, Legislative Council and Maureen
Cleary, Committee Secretary

Announcements/Discussion: none

DISPOSITION OF SENATE BILL 111

Motion: Rep. Koehnke: made the motion "do pass"

Discussion: Rep. Bachini: Yesterday, we met with members of the
opposition and proponents. We met to create amendments that
would be satisfactory to all involved in this issue. Our
researcher will review those amendments for clarification.
(See Exhibit #1)

Amendments, Discussion, and Votes: Amendments were acted on and
passed. (See Attached Standing Committee Report)

Recommendation and Vote: THEREFORE, THE COMMITTEE RECOMMENDS
THIS BILL "BE CONCURRED IN AS AMENDED".

DISPOSITION OF SENATE BILL 432

Motion: Rep. Linda Nelson: made the motion "do pass"

Discussion: none

Amendments, Discussion, and Votes: Researcher, Connie Erickson,
read the proposed amendments (See Exhibits #2 through #5)
for clarification. Amendments were acted on and passed.
(See Standing Committee Report)

Recommendation and Vote: THEREFORE, THE COMMITTEE RECOMMENDS
THIS BILL "TO BE CONCURRED IN AS AMENDED".

DAILY ROLL CALL
AGRICULTURE COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 3/17/89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Bachini, Chairman	✓		
Rep. Francis Koehnke, Vice Ch.	✓		
Rep. Gene DeMars	✓		
Rep. Jerry Driscoll			✓
Rep. Jim Elliot			✓
Rep. Linda Nelson	✓		
Rep. Bob Ream			✓
Rep. Don Steppler	✓		
Rep. Vernon Westlake	✓		
Rep. Duane Compton	✓		
Rep. Orval Ellison			✓
Rep. Bert Guthrie	✓		
Rep. Marian Hanson	✓		
Rep. Harriet Hayne	✓		
Rep. Betty Lou Kasten	✓		
Rep. Vernon Keller	✓		
Rep. John Patterson	✓		

Amendments to Senate Bill No. 432
Third Reading Copy

EXHIBIT #2

DATE 3/17/89

HB SB 432

Requested by Representative Kasten
For the Committee on House Agriculture, Livestock, and Irrigation

Prepared by Connie Erickson
March 10, 1989

1. Page 1, line 25 through page 2, line 1.
Following: "until" on line 25
Strike: remainder of line 25 through "until" on page 3, line 1

Amendments to Senate Bill No. 432
Third Reading Copy

For the House Committee on Agriculture, Livestock, and Irrigation

Prepared by Connie Erickson
March 17, 1989

EXHIBIT #3
DATE 3/17/89
HB SB 432

1. Title, line 11.
Following: "FUNCTIONS;"
Insert: "DEFINING IRRIGABLE LAND"

2. Page 1, line 19.
Strike: "irrigated"
Insert: "irrigable"
Following: "THE"
Insert: "division of the"

3. Page 1, line 20.
Following: "~~shall~~"
Insert: "he represents"

4. Page 1, lines 22 and 23.
Strike: "for which the commissioner is to be elected"

5. Page 1, line 23.
Following: "~~situated~~"
Insert: "is situated"

6. Page 2, line 18.
Strike: "irrigated"
Insert: "irrigable"

7. Page 2, line 19.
Following: "~~shall~~"
Insert: "he represents"

8. Page 2, line 20.
Following: "~~the~~"
Insert: "county in which the"

9. Page 2, line 21.
Strike: "for which"
Strike: "the commissioner is"

10. Page 2, line 22.

Strike: "elected"

Following: "~~situated~~"

Strike: "and"

Insert: "or some portion of the division is situated. A
commissioner appointed under this section"

11. Page 3, line 4.

Strike: "irrigated"

Insert: "irrigable"

12. Page 7.

Following: line 16

Insert: "NEW SECTION. Section 5. Definition of irrigable land.

As used in this chapter, "irrigable land" means:

(1) land that can receive irrigation water and is
classified as irrigable by the district or the United States
government; or

(2) land decreed as taxable acreage under 85-7-1841
through 85-7-1845.

NEW SECTION. Section 6. Codification instruction.

[Section 5] is intended to be codified as an integral part of
Title 85, chapter 7, and the provisions of Title 85, chapter 7,
apply to [section 5]."

Amendments to Senate Bill No. 432
Third Reading Copy

For the House Committee on Agriculture, Livestock, and Irrigation

March 17, 1989

1. Title, line 9.

Following: "ELECTORS;"

Insert: "REVISING VOTING PROCEDURES;"

2. Page 5, lines 7 through 11.

Strike: line 7 through line 11 in their entirety

Insert: "To cast a vote or votes, an elector shall submit a
ballot that includes the number of acres owned and the
number of votes being cast."

EXHIBIT #4
DATE 3/17/89
HB SB432

Amendments to Senate Bill No. 432
Third Reading Copy

For the House Committee on Agriculture, Livestock, and Irrigation

March 17, 1989

1. Title, line 9.
Strike: "ALLOWING"
Insert: "AUTHORIZING"
Strike: "RECEIVE"
Insert: "APPOINT"

2. Title, line 10.
Strike: "ASSISTANCE FROM"

EXHIBIT #5
DATE 3/17/89
HB SB432.

3. Title, line 11.
Strike: "FOR"
Insert: "TO PERFORM"

4. Page 6, line 12.
Strike: "may receive assistance from"
Insert: "shall appoint"

5. Page 6, line 16.
Strike: "preparing"
Insert: "issuing"

6. Page 6, line 17.
Following: "notices."
Insert: "The appointee shall perform these functions consistent
with practices and procedures established by the county
treasurer."

do not pass

ROLL CALL VOTE

AGRICULTURE, LIVESTOCK & IRRIGATION

COMMITTEE

DATE 3/17/89

BILL NO. SB432

NUMBER _____

NAME	AYE	NAY
BOB BACHINI, CHAIRMAN	✓	
FRANCIS KONTHE, VICE CHAIRMAN	✓	
GENE DE MARS	✓	
JERRY DRISCOLL	✓	
JIM ELLIOT	✓	
LINDA NELSON	✓	
BOB REAM	✓	
DON STEPPLE	✓	
VERNON WESTLAKE	✓	
DUANE COMPTON	✓	
ORVAL ELLISON	✓	
BERT GUTHRIE	✓	
MARIAN HANSON	✓	
HARRIET HAYNE	✓	
BETTY LOU KASTEN	✓	
VERNON KELLER	✓	
JOHN PATTERSON	✓	

TALLY

(15)

Maureen Cleary
Mary Lou Schmitz
 Secretary

BOB BACHINI, Chairman
 Chairman

MOTION: rep. nelson - to be concurred as amend
rep. kasten exhibit #2 amends - unan.
rep. kasten exhibit #3 amends - unan
rep. hanson exhibit #4 amends -
rep. patterson reinsert 7-11 "or" - 2 exhibit
rep. hanson exhibit #5 amends "do not pass"

to be concurred
 as amend

STANDING COMMITTEE REPORT

March 22, 1989

Page 1 of 3

March 22, 1989
Page 2 of

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that SENATE BILL 432 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Title, line 9.
Following: "ELECTORS;"
Insert: "REVISING VOTING PROCEDURES;"

2. Title, line 11.
Following: "FUNCTIONS;"
Insert: "DEFINING IRRIGABLE LAND;"

3. Page 1, line 19.
Strike: "irrigated"
Insert: "irrigable"
Following: "THE"
Insert: "division of the"

4. Page 1, line 20.
Following: "DISTRICT"
Insert: "he is to represent"

5. Page 1, lines 22 and 23.
Strike: "for which the commissioner is to be elected"

6. Page 1, line 23.
Following: "~~situated~~"
Insert: "is situated"

7. Page 1, line 25 through page 2, line 1.
Following: "until" on line 25
Strike: remainder of line 25 through "until" on page 2, line 1

8. Page 2, line 18.
Strike: "irrigated"

Insert: "irrigable"

9. Page 2, line 19.
Following: "~~shall~~"
Insert: "he represents"

10. Page 2, line 20.
Following: "~~the~~"
Insert: "county in which the"

11. Page 2, line 21.
Strike: "for which"
Strike: "the commissioner is"

12. Page 2, line 22.
Strike: "elected"
Following: "~~situated~~,"
Strike: "and"
Insert: "or some portion of the division is situated. A commissioner appointed under this section"

13. Page 3, line 4.
Strike: "irrigated"
Insert: "irrigable"

14. Page 5, line 7.
Strike: "The balloting ~~shall~~ must take place in the following manner"
Insert: "(4) The board of commissioners shall choose one of the following methods of balloting"
Following: ":"
Insert: "(a)"

15. Page 5, line 11.
Following: "10"
Insert: "; or (b) the elector shall submit a ballot that include the number of acres owned and the number of votes being cast"

16. Page 7.
Following: line 16
Insert: "NEW SECTION. Section 5. Definition of irrigable land"
As used in this chapter, "irrigable land" means:
(1) land that can receive irrigation water and is classified as irrigable by the district or the United States government; or
(2) land decreed as taxable acreage under 85-7-1841 through 85-7-1845.

NEW SECTION. Section 6. Codification instruction.

661509SC.HBV

HOUS
SB 4

March 22, 1989

Page 3 of 3

[Section 5] is intended to be codified as an integral part of Title 85, chapter 7, and the provisions of Title 85, chapter 7, apply to [section 5]."

SENATE BILL NO. 432
INTRODUCED BY BENGTSON

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING TECHNICAL CHANGES TO THE IRRIGATION DISTRICT LAWS; MODIFYING THE REQUIREMENTS FOR COMMISSIONERS OF IRRIGATION DISTRICTS AND THE PROCESS FOR APPOINTING A COMMISSIONER TO FILL A VACANCY ON THE BOARD OF COMMISSIONERS; CLARIFYING THE QUALIFICATIONS OF ELECTORS; REVISING VOTING PROCEDURES; ALLOWING A COUNTY TREASURER TO RECEIVE ASSISTANCE FROM AN IRRIGATION DISTRICT EMPLOYEE OR COMMISSIONER FOR CERTAIN DISTRICT-RELATED TAX FUNCTIONS; DEFINING IRRIGABLE LAND; AND AMENDING SECTIONS 85-7-1501, 85-7-1703, 85-7-1710, AND 85-7-2136, MCA. "

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-7-1501, MCA, is amended to read:

"85-7-1501. Qualifications of commissioners and term of office. (1) No A person may not be a commissioner unless he is an owner of irrigated IRRIGABLE land within the district THE DIVISION OF THE DISTRICT HE IS TO REPRESENT and is a resident of the county-in-which-the COUNTY IN WHICH THE division of the district or some portion thereof, OR SOME PORTION OF THE DIVISION for which the commissioner is to be elected, is situated IS SITUATED.

(2) The commissioners appointed shall hold their

respective offices until the--second--Saturday--in--December following--their--appointment--and--until their respective successors are elected and qualified. Each of the commissioners shall qualify in the same manner as justices of the peace. The bond for a commissioner shall must be approved by the district court or judge thereof of the district court and filed in the office of the clerk of the court."

Section 2. Section 85-7-1703, MCA, is amended to read:

"85-7-1703. Vacancies among commissioners. In case of a vacancy in the board of commissioners, from any cause, such the vacancy shall must be filled until the next regular or special election by appointment by the board. The remaining commissioners shall constitute a quorum for the purpose of filling any vacancy. If a vacancy exists for every position on the board, the judge of the district court of the county in which the division or major portion thereof of the division is situated shall make the appointments. The appointee shall must be an owner of irrigated IRRIGABLE land within the division of the district, shall HE REPRESENTS and must be a resident of the county--in--which--the COUNTY IN WHICH THE division of the district for some portion of the division for which such the commissioner is so elected)--is situated, and OR SOME PORTION OF THE DIVISION IS SITUATED. A COMMISSIONER APPOINTED UNDER THIS SECTION shall hold office

1 until his successor is elected and qualified."

2 **Section 3.** Section 85-7-1710, MCA, is amended to read:

3 "85-7-1710. Qualification of electors and nature of
4 voting rights. (1) At all elections held under the
5 provisions of this part, except as otherwise expressly
6 provided, the following holders of title or evidence of
7 title to ~~irrigated~~ IRRIGABLE lands within the district,
8 herein designated "electors", are entitled to vote:

9 (a) all individuals having the qualifications of
10 electors under the constitution and general election laws of
11 the state, except that no registration of electors may be
12 required;

13 (b) guardians, executors, administrators, and
14 trustees;

15 (c) domestic corporations, by their duly authorized
16 agents.

17 (2) In all elections held under this part, each
18 elector is permitted to cast one vote for each 40 acres of
19 irrigable land or major fraction thereof owned by the
20 elector within the district, irrespective of the location of
21 the irrigable lands within the tracts designated by the
22 commissioners for assessment and taxation purposes or within
23 congressional subdivisions, platted lots or blocks (except
24 as hereinafter provided for), election precincts, or
25 district divisions, but any elector owning any less than 40

1 acres of irrigable land is entitled to one vote. Until the
2 irrigable area under the proposed plan of reclamation is
3 determined, all land included within the boundaries of the
4 district ~~shall~~ must be considered irrigable land for
5 election purposes.

6 (3) Whenever land is owned by co-owners, the owners
7 may designate one of their number or an agent to cast the
8 vote for the owners, and one vote only for each 40 acres of
9 irrigable land or major fraction thereof may be cast by the
10 voting co-owner or agent. Whenever land is under contract of
11 sale to a purchaser residing within the state, the purchaser
12 may vote on behalf of the owner of the land. When voting,
13 the agent of a corporation or co-owners, the co-owner
14 designated for purpose of voting, or the purchaser of land
15 under contract of sale, as the case may be, shall file with
16 the secretary of the district or with the election officials
17 a written instrument of his authority, executed and
18 acknowledged by the proper officers of the corporation, by
19 the co-owners, or by the owner of land under contract of
20 sale, as the case may be, and thereupon the agent or
21 co-owner or purchaser, as the case may be, is an elector
22 within the meaning of this part. Whenever the total
23 irrigable acreage within any one district has been platted
24 or subdivided into lots or blocks to the extent of 5% or
25 more of the total acreage of the district or whenever the

majority of the district board adopts a resolution allowing it, each elector is permitted to cast one vote for each acre of irrigable land or major fraction thereof of an acre of irrigable land owned by the elector within the district, irrespective of the location of such irrigable lands within the tracts designated by the commissioners for assessment and taxation purposes or within the congressional subdivisions, but any elector owning any less than 1 acre of irrigable land within the district is entitled to one vote.

~~The balloting shall must take place in the following manner~~

(4) THE BOARD OF COMMISSIONERS SHALL CHOOSE ONE OF THE FOLLOWING METHODS OF BALLOTING:

(A) 10 votes or less, separate ballots will be used; more than 10 votes, the elector shall vote in blocks of 10 using one ballot for each 10 votes and separate ballots for odd votes over multiples of 10; OR

(B) THE ELECTOR SHALL SUBMIT A BALLOT THAT INCLUDES THE NUMBER OF ACRES OWNED AND THE NUMBER OF VOTES BEING CAST."

Section 4. Section 85-7-2136, MCA, is amended to read:

***85-7-2136. Collection of taxes or assessment.** (1) On or before the third Monday in August of each year the board of commissioners shall furnish the agent of the department of revenue in each county in which any of the lands of the district are situate a correct list of all the district

lands in ~~such~~ the county, together with the amount of the total taxes or assessments against ~~said the~~ said lands for district purposes. The agent of the department of revenue in each county shall immediately thereafter, and prior to the delivery of the assessment book to the county treasurer, cause ~~said the~~ said assessment roll to be entered in the assessment book of ~~said the~~ said county for each year.

(2) It ~~shall be~~ is the duty of the county treasurer of each county in which any irrigation district is located, in whole or in part, to collect and receipt for all taxes and assessments levied by ~~any such the~~ any such the district, in the same manner and at the same time as is required in the collection of taxes upon real estate for county purposes as provided in 15-16-102; ~~provided the~~ provided. The treasurer shall receive from any taxpayer, at any time, the amount due on account of any district assessments of any kind, whether other taxes on the same real estate are paid or not.

(3) If requested in writing by a board of commissioners of an irrigation district, the county treasurer may receive assistance from an employee of the irrigation district or a commissioner of the district for the purpose of collecting district assessments as provided in 15-16-102, investing district funds as directed by the board of commissioners of the district, and preparing district assessment notices.

1 (4) When any real estate on account of which such the
2 district taxes and assessments have been levied has been
3 sold to the county and tax certificate of sale is held by
4 the county, the taxpayer may pay to the treasurer at any
5 time any semiannual installment of such the district tax or
6 assessment, together with the penalty and interest to date
7 of payment on such installment; ~~provided that such.~~ However,
8 the payment ~~shall~~ may not be ~~deemed~~ considered a redemption
9 of ~~said the~~ property from such the tax sale but ~~shall~~ must
10 be credited on account of any redemption that may ~~thereafter~~
11 be made. In case of any payment pursuant to this subsection,
12 a separate tax receipt ~~shall~~ must issue showing exactly what
13 assessments have been paid and ~~shall~~ must show that no other
14 tax on ~~said the~~ real estate has been received by ~~said the~~
15 treasurer; ~~provided such.~~ The county treasurer ~~shall~~ may not
16 collect or receive or receipt for any taxes levied for
17 county purposes upon real estate situated wholly or in part
18 within any irrigation district upon which an assessment for
19 the purposes of such the irrigation district has been levied
20 unless the assessment levied for such irrigation district
21 purposes ~~be~~ is paid as herein permitted and the receipt
22 therefor for the payment presented to the county treasurer
23 at the time such the taxes are paid, or paid at the same
24 time."

25 NEW SECTION. SECTION 5. DEFINITION OF IRRIGABLE LAND.

1 AS USED IN THIS CHAPTER, "IRRIGABLE LAND" MEANS:

2 (1) LAND THAT CAN RECEIVE IRRIGATION WATER AND IS
3 CLASSIFIED AS IRRIGABLE BY THE DISTRICT OR THE UNITED STATES
4 GOVERNMENT; OR

5 (2) LAND DECREED AS TAXABLE ACREAGE UNDER 85-7-1841
6 THROUGH 85-7-1845.

7 NEW SECTION. SECTION 6. CODIFICATION INSTRUCTION.
8 [SECTION 5] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART
9 OF TITLE 85, CHAPTER 7, AND THE PROVISIONS OF TITLE 85,
10 CHAPTER 7, APPLY TO [SECTION 5].

-End-